



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

LONESTAR FOOT & ANKLE PA  
PO BOX 938  
KILLEEN TX 76540

#### **Respondent Name**

TEXAS MUTUAL INSURANCE CO

#### **Carrier's Austin Representative Box**

Box Number 54

#### **MFDR Tracking Number**

M4-13-1453-01

#### **MFDR Date Received**

FEBRUARY 12, 2013

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "The attached claim was denied as the original filing of the claim was past the 95<sup>th</sup> day after the date of service. It has come to our attention that the original work comp information we received from the facility was incorrect. We have included the Metroplex Hospital patient information sheet which shows Unified Health Services in the insurance name field. Please reconsider payment for this claim based on rule 133.20 paragraph C which states 'provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than 95<sup>th</sup> day after the date the health care provider is notified.'"

**Amount in Dispute:** \$7,180.00

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The requestor argues it meets the untimely exception at Rule 133.20(b). Texas Mutual disagrees for the following reasons. In its letter of 12/31/12 the requestor states 'It took til 8/29/12 for all the Texas Mutual information to be obtained.' Ninety-five days from 7/19/12 is 10/22/12. The requestor then had from 8/29/12 to 10/22/12 to create the bill and submit it to Texas Mutual timely, which it failed to do. But please note, nowhere in the DWC-60 packet does the requestor state when it was notified of the correct carrier. The sentence 'It took till 8/29/12 for all the Texas Mutual information to be obtained' could be referring to the claimant, i.e. it took the claimant until 8/29/12 to get the information and then some time later furnished it to the requestor. Further, the same Rule 133.20(b) states the requestor must submit to Texas Mutual the original bill it submitted to Unified Health Services. Texas Mutual has not record of receiving that bill nor is it to be found in the requestor's DWC-60 packet. The bill is still late. The bill does not meet the exception criteria at 408.0272 of the Labor Code. No payment is due."

**Response Submitted by:** Texas Mutual Insurance Co., 6210 E. Hwy 290, Austin, TX 78723

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 17, 2012 July 24, 2012	CPT Codes 99221 and 27610 CPT Code 28805 x 2	\$7,180.00	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

## **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
4. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
5. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 29 – The time limit for filing has expired.
  - 731 – Per 133.20 provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the service. For services on or after 9/1/05.
  - 18 – Duplicate claim/service
  - 736 – Duplicate appeal.
  - 928 – HCP must submit documentation to support exception to timely filing of bill. Notification of erroneous submission not included.
  -

## **Issues**

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

## **Findings**

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied..." Review of the documentation submitted by the requestor finds that a copy of the original medical bill submitted to Unified Health Services was not included in the documentation. Therefore, no documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment." 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." Review of the submitted information finds no documentation to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

## **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

## ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

## **Authorized Signature**

_____	_____	August 15, 2013
Signature	Medical Fee Dispute Resolution Officer	Date

## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**